

COMMONWEALTH OF KENTUCKY
BEFORE THE ENERGY REGULATORY COMMISSION

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In the Matter of

TEXAS AMERICAN ENERGY CORPORATION)	
AND)	
WESTERN KENTUCKY GAS COMPANY)	CASE NO. 7975
)	
CHANGE IN OWNERSHIP AND CONTROL)	

O R D E R

On September 22, 1980, Texas American Energy Corporation, a Delaware Corporation (hereinafter referred to as "Energy"), and Western Kentucky Gas Company, a Delaware Corporation (hereinafter referred to as "Western"), by counsel, respectfully submitted a Joint Petition with attachments thereto pursuant to Section 278.020 of the Kentucky Revised Statutes and Section 7 of the Commission's Rules and Procedures, 807 KAR 50:005, seeking (A) approval of the change in ownership and control from Western to Energy of all Western's utility properties;¹ (B) permission to transfer by Western and acquire by Energy all Western's franchises for utility service; and (C) approval of the adoption by Energy of all Western's existing rates and tariffs.²

The matter was set for public hearing at the Commission's offices in Frankfort, Kentucky, on November 6, 1980, by its Order entered October 1, 1980. All parties of interest were notified with no protests entered. This matter is considered to be fully submitted for final determination by the Commission.

Energy, through its subsidiaries, explores for, develops and produces crude oil and natural gas onshore in the continental United States as well as operates a refinery located in West Branch, Michigan, which produces gasoline, distillates and residual products. Energy also engages in brokerage operations which consist of purchasing regular, premium, and unleaded gasoline from suppliers and then reselling it to local jobbers in the Michigan area.

¹Pursuant to Public Service Commission v. City of Southgate, 268 S.W. 2d 19 (Ky. 1954)

²Pursuant to 807 KAR 50:025 Section 9.

Western is a public utility as defined in the "Kentucky Revised Statutes"³ and, as such, is subject to regulation by this Commission. Western is primarily engaged in the distribution of natural gas to approximately 131,000 residential, commercial, and industrial customers in 106 towns and communities in central and western Kentucky.

On September 12, 1980, Western, and on September 18, 1980, Energy, through their respective Boards of Directors, approved and caused the execution of an Agreement and Plan of Merger. Under the Agreement, a wholly-owned subsidiary of Energy will merge with and into Western; with Western, the surviving corporation, becoming a wholly-owned subsidiary of Energy. After a series of other mergers and liquidations, Energy proposes to operate the jurisdictional utility business as a Division of Energy, while the nonjurisdictional properties of Western will be owned and operated by an Energy subsidiary.

As part of the Agreement, Energy has offered to buy all the outstanding stock of Western at a price slightly in excess of its book value as of June 30, 1980, namely \$28 for each outstanding share of common and preferred stock of Western. This transaction will be effective at the date of the merger. Further, the Agreement preserves the right of stockholders of Western to receive the fair value of their shares pursuant to appraisal rights provided under Delaware law. Energy will provide all the funds necessary to pay the \$28 per share and any amounts determined to be owed pursuant to appraisal rights.

Energy and Western estimate that the overall cost of the "cash merger" to Energy will be approximately \$23,000,000. Initially, the cost will be financed by a portion of the proceeds of a \$50,000,000, seven year term bank loan having no penalties for early retirement. At a later date the loan may be retired with the proceeds of a sale of common stock securities. The date of sale of said permanent financing will be determined when, in the judgment of Energy, said permanent financing can be accomplished at a reasonable cost.

³Section 278.010, Definitions.

For rate-making purposes, Energy intends to carry the utility properties of Western on its books at historical cost in the same manner as they have heretofore been carried by Western. Any acquisition adjustments will be made for consolidated reporting purposes only and not for the purpose of affecting the rate base of the utility properties subject to the jurisdiction of this Commission.

FINDINGS & ORDERS

The Commission, after consideration of the Joint Petition and the evidence of record and being advised, is of the opinion and finds that Energy is qualified to assume responsibility for providing service to the customers presently served by Western; that Energy will continue to employ such persons as are necessary and experienced for the proper and efficient operation of the utility; and that Energy is ready, willing and able to acquire and to operate Western.

The Commission further finds that it is essential that Energy acquire all franchises for utility service presently held by Western for continuity of utility service to customers presently served by Western.

The Commission further finds that Energy proposes to adopt all existing rates, tariffs and regulations filed by Western with this Commission.

IT IS THEREFORE ORDERED, that Energy be and hereby is granted approval to acquire the ownership and control of all Western's utility properties pursuant to Public Service Commission V. City of Southgate, 268 S.W. 2d (Ky. 1954).

IT IS FURTHER ORDERED, that Energy be and hereby is granted approval to acquire all of Western's franchises for utility service.

IT IS FURTHER ORDERED, that Energy be and hereby is granted approval to adopt all existing rates, tariffs and regulations filed by Western with this Commission pursuant to 807 KAR 50:025 Section 9.

IT IS FURTHER ORDERED, that Energy shall file with this Commission within thirty (30) days of the consummation of the merger an Adoption Notice in the appropriate form.

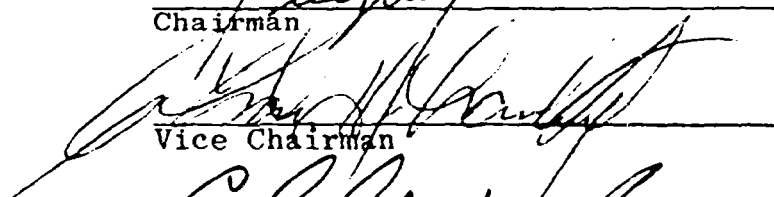
IT IS FURTHER ORDERED, that Energy, within thirty (30) days of the consummation of the merger, shall file the final consolidated adjusting entries and consolidated financial statements as of the effective date of the merger.

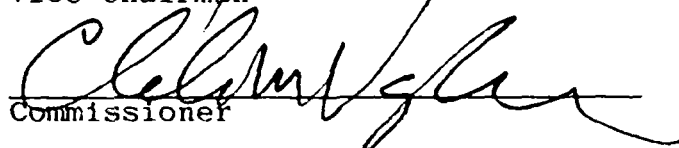
IT IS FURTHER ORDERED, that Energy shall file and make a part of its annual filing to the Commission a consolidated report.

Done at Frankfort, Kentucky, this 19th day of November, 1980.

ENERGY REGULATORY COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:

Secretary